

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

KAREN TURNER,)
v. Plaintiff,)
JO ANNE B. BARNHART,) No. 05-0948-CV-W-FJG-SSA
Commissioner of Social Security,)
Defendant.)

ORDER

Pending before the Court is Plaintiff's Application for Leave to File Civil Action In Forma Pauperis (Doc. No. 1). Together with said motion is Plaintiff's Affidavit of Financial Status (Doc. No. 2).

Pursuant to 28 U.S.C. § 1915, this Court may authorize the commencement or prosecution of any suit without prepayment of fees when an applicant files an affidavit stating that he is unable to pay the costs of the lawsuit, and the Court determines that the lawsuit is not frivolous or malicious.

The Court must exercise its discretion in determining whether an applicant is sufficiently impoverished to qualify under § 1915. Cross v. Gen. Motors Corp., 721 F.2d 1152, 1157 (8th Cir. 1983). Such showing of poverty is sufficient if the applicant would become completely destitute or be forced to give up the basic necessities of life if required to pay the costs of the lawsuit. Adkins v. E.I. Du Pont De Nemours & Co., 335 U.S. 331, 339 (1948); Local Rule 83.7(a) (1999).

Plaintiff's Affidavit reveals that she is forty-nine years old and divorced. Her eighteen-year-old son lives with her, and she provides 100% of his support. Plaintiff states

in her affidavit that she is employed by the Independence Schools as a custodian, and earns a net income of \$1,151.62 per month, and a gross income of \$1,589.67 per month. She has been employed in this position for 45 days.

Plaintiff does not own real property. She owns a 1993 Olds Royale, with a present value of \$500.00. Plaintiff indicates that she has \$75.00 cash on hand, and indicates she maintains a bank account at First National Bank of Missouri. Plaintiff indicates that, over the past twelve months, she has received \$527.00 per month in child support; however, her child support payments ended in May 2005. Plaintiff reports that she has monthly expenses as follows: \$585.00 in rental payments, \$150.00 in grocery expenses, \$95.00 in gas bills, \$120.00 in electric bills, \$20.00 in water bills, \$130.00 in prescription drug costs, and \$50 in gasoline expenses.

Based upon the information provided in plaintiff's affidavit, the Court believes that plaintiff is sufficiently impoverished to be permitted to proceed in forma pauperis. Therefore, the Court will grant plaintiff's application for leave to file this civil action in forma pauperis. Additionally, the Court finds that Plaintiff's complaint is not barred by 28 U.S.C. § 1915(e)(2)(B). The complaint does not appear to be frivolous, nor does it appear to state a claim on which relief cannot be granted or seek monetary relief against a defendant who is immune from such relief.

Accordingly, it is hereby **ORDERED** that:

1. Plaintiff's Application for Leave to File Civil Action In Forma Pauperis (Doc. No. 1) is GRANTED;
2. because this case is included in the Case Management/Electronic Case Filing system; plaintiff's counsel shall be responsible for electronically filing the Complaint on or

before October 17, 2005; and

3. plaintiff shall be responsible for serving process in the manner described in Federal Rule of Civil Procedure 4(l).

Date: October 14, 2005
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge